

107TH CONGRESS
2D SESSION

S. 2047

To amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax.

IN THE SENATE OF THE UNITED STATES

MARCH 21, 2002

Mr. BREAUX (for himself and Mr. BOND) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE: AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Domestic Spirits Tax Equity Act of 2002”.

1 **SEC. 2. INCOME TAX CREDIT TO DISTILLED SPIRITS**
 2 **WHOLESALE FOR COST OF CARRYING FED-**
 3 **ERAL EXCISE TAXES ON BOTTLED DISTILLED**
 4 **SPIRITS.**

5 (a) IN GENERAL.—Subpart A of part I of subchapter
 6 A of chapter 51 of the Internal Revenue Code of 1986
 7 (relating to gallonage and occupational taxes) is amended
 8 by adding at the end the following new section:

9 **“SEC. 5011. INCOME TAX CREDIT FOR WHOLESALER’S AV-**
 10 **ERAGE COST OF CARRYING EXCISE TAX.**

11 “(a) IN GENERAL.—For purposes of section 38, in
 12 the case of an eligible wholesaler, the amount of the dis-
 13 tilled spirits wholesalers credit for any taxable year is the
 14 amount equal to the product of—

15 “(1) the number of cases of bottled distilled
 16 spirits—

17 “(A) which were bottled in the United
 18 States, and

19 “(B) which are purchased by such whole-
 20 saler during the taxable year directly from the
 21 bottler of such spirits, and

22 “(2) the average tax-financing cost per case for
 23 the most recent calendar year ending before the be-
 24 ginning of such taxable year.

25 “(b) ELIGIBLE WHOLESALER.—For purposes of this
 26 section, the term ‘eligible wholesaler’ means any person

1 who holds a permit under the Federal Alcohol Administra-
 2 tion Act as a wholesaler of distilled spirits.

3 “(c) AVERAGE TAX-FINANCING COST.—

4 “(1) IN GENERAL.—For purposes of this sec-
 5 tion, the average tax-financing cost per case for any
 6 calendar year is the amount of interest which would
 7 accrue at the deemed financing rate during a 60-day
 8 period on an amount equal to the deemed Federal
 9 excise per case.

10 “(2) DEEMED FINANCING RATE.—For purposes
 11 of paragraph (1), the deemed financing rate for any
 12 calendar year is the average of the corporate over-
 13 payment rates under paragraph (1) of section
 14 6621(a) (determined without regard to the last sen-
 15 tence of such paragraph) for calendar quarters of
 16 such year.

17 “(3) DEEMED FEDERAL EXCISE TAX BASED ON
 18 CASE OF 12 80-PROOF 750ML BOTTLES.—For pur-
 19 poses of paragraph (1), the deemed Federal excise
 20 tax per case is \$25.68.

21 “(4) NUMBER OF CASES IN LOT.—For purposes
 22 of this section, the number of cases in any lot of dis-
 23 tilled spirits shall be determined by dividing the
 24 number of liters in such lot by 9.”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) Subsection (b) of section 38 of the Internal
 2 Revenue Code of 1986 is amended by striking
 3 “plus” at the end of paragraph (14), by striking the
 4 period at the end of paragraph (15) and inserting “,
 5 plus”, and by adding at the end the following new
 6 paragraph:

7 “(16) in the case of an eligible wholesaler (as
 8 defined in section 5011(b)), the distilled spirits
 9 wholesaler credit determined under section
 10 5011(a).”.

11 (2) Subsection (d) of section 39 of such Code
 12 (relating to carryback and carryforward of unused
 13 credits) is amended by adding at the end the fol-
 14 lowing new paragraph:

15 “(11) NO CARRYBACK OF SECTION 5011 CREDIT
 16 BEFORE JANUARY 1, 2002.—No portion of the un-
 17 used business credit for any taxable year which is
 18 attributable to the credit determined under section
 19 5011(a) may be carried back to a taxable year be-
 20 ginning before January 1, 2002.”.

21 (3) The table of sections for subpart A of part
 22 I of subchapter A of chapter 51 of such Code is
 23 amended by adding at the end the following new
 24 item:

 “Sec. 5011. Income tax credit for wholesaler’s average cost of car-
 rying excise tax.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2001.

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